

REMARKS

I. Introduction

In response to the Office Action dated July 9, 2004, Applicants have amended claims 44, 45, 47 and 48 so as to address the pending rejection under 35 U.S.C. § 112, second paragraph.

No new matter has been added.

Having fully responded to all matters raised in the Office Action, Applicants submit that all claims are in condition for allowance, an indication for which is respectfully solicited.

Should there remain any outstanding issues that require adverse action, it is respectfully requested that the Examiner telephone the undersigned attorney below so that such issues may be resolved as expeditiously as possible.

II. The Rejection of Claims 44-52 Under 35 U.S.C. § 112, Second Paragraph

Claims 44-52 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. It is respectfully submitted that the foregoing amendments to claims 44, 45, 47 and 48 address and overcome the pending rejection under 35 U.S.C. § 112, second paragraph.

III. The Obviousness-Type Doubling Patenting Rejection

Claims 7 and 43-52 are rejected under the judicially created doctrine of obviousness-type double patent as being unpatentable over claims 1-11 of U.S. Patent No. 6,732,586 or claims 1-14 of U.S. Patent No. 6,244,095. In response to the non-statutory-type double patenting, Applicants are

filing concurrently herewith a terminal disclaimer. It is respectfully submitted that the terminal disclaimer renders the pending double patenting rejection moot.

IV. All Dependent Claims Are Allowable Because The Independent Claims From Which They Depend Are Allowable

Under Federal Circuit guidelines, a dependent claim is nonobvious if the independent claim upon which it depends is allowable because all the limitations of the independent claim are contained in the dependent claims, *Hartness International Inc. v. Simplimatic Engineering Co.*, 819 F.2d at 1100, 1108 (Fed. Cir. 1987). Accordingly, as claims 7 and 43 are patentable for the reasons set forth above, it is respectfully submitted that all claims dependent thereon are also in condition for allowance.

Accordingly, it is respectfully requested that the rejections of claims 7 and 43-52 under obviousness-type double patenting be withdrawn.

V. Conclusion

Accordingly, it is urged that the application is in condition for allowance, an indication of which is respectfully solicited.

If there are any outstanding issues that might be resolved by an interview or an Examiner's amendment, the Examiner is requested to call Applicants' attorney at the telephone number shown below.

No.: 10/614,025

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

MCDERMOTT WILL & EMERY LLP


Michael E. Fogarty
Registration No. 36,139

600 13th Street, N.W.
Washington, DC 20005-3096
202.756.8000 MEF/AHC
Facsimile: 202.756.8087
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